

**FILED**

OCT 25 2012

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

DAVID BREWS, CLERK  
BY  Deputy

FAULKNER LITERARY RIGHTS, LLC

PLAINTIFF

V.

NO. 3:12cv100-M-A

SONY PICTURES CLASSICS, INC., and  
JOHN DOE PERSONS OR ENTITIES 1-100

DEFENDANTS

**COMPLAINT**

***Jury Trial Demanded***

Plaintiff Faulkner Literary Rights, LLC (“Faulkner”), states the following claims against Defendants Sony Pictures Classics, Inc. (“Sony”), and John Doe Persons or Entities 1-100 (“John Does”):

**PARTIES**

1. Faulkner is a limited liability company formed under the laws of the State of Virginia, with its principal place of business in Charlottesville, Virginia.
2. Sony is a Delaware corporation with its principal place(s) of business in New York, New York and/or Culver City, California.
3. John Does are persons or entities unknown at this time but who have engaged in some or all of the conduct described in this Complaint in violation of Faulkner’s rights and are liable to Faulkner.

**SUBJECT MATTER JURISDICTION**

4. This Court has subject matter jurisdiction of this action under 28 U.S.C. § 1331, as the matter arises under the Lanham Act, 15 U.S.C. § 1125, and under 28 U.S.C. § 1338(a), as the matter arises under the Copyright Act, 17 U.S.C. §§ 101, *et seq.* This Court has supplemental

jurisdiction over the state law claim under 28 U.S.C. § 1367, as that claim is so related to the federal claims that it forms part of the same case or controversy.

#### **PERSONAL JURISDICTION**

5. This Court has general personal jurisdiction over Sony and John Does under the Mississippi Long-Arm Statute, Miss. Code § 13-3-57. Sony and John Does have purposefully engaged in regular and continuous contacts within the State of Mississippi and this District, such that they have purposefully availed themselves of the benefits and protections of Mississippi's laws. Sony and John Does also committed a tort in whole or in part in Mississippi and in this District. The maintenance of this action against Sony and John Does in this Court will not offend the traditional notions of fair play and substantial justice.

#### **VENUE**

6. Because Sony and John Does may be found in this District as the result of this Court's personal jurisdiction over them, venue is proper in this Court under 28 U.S.C. § 1400(a). Venue is also proper under 28 U.S.C. § 1391(b)(2), as a substantial part of the events giving rise to the claim occurred in this District.

#### **FACTS**

7. In 2011, Sony began distributing and marketing a motion picture entitled "Midnight in Paris" ("the Infringing Film"), written and directed by Woody Allen. John Does published the Infringing Film in their theaters and/or in other public places for commercial purposes and/or distributed the film for commercial purposes through point-of-purchase sales, internet sales and/or by other means.

8. The plot of the Infringing Film centers around Gil Pender, a Hollywood screenwriter (portrayed by Owen Wilson) vacationing in Paris. During the course of the film,

Pender is repeatedly transported to the 1920s, where he meets characters such as F. Scott Fitzgerald, Ernest Hemingway, Pablo Picasso and Salvador Dali.

9. In describing his experiences, Pender speaks the following lines (“the Infringing Quote”): “The past is not dead! Actually, it's not even past. You know who said that? Faulkner. And he was right. And I met him, too. I ran into him at a dinner party.”

10. The Infringing Quote is taken from a passage contained in the William Faulkner book “Requiem for a Nun” (“the Book”), where it reads: “The past is never dead. It’s not even past.” (“the Original Quote”).

11. Faulkner is the owner of the copyright to the Book, original registration number A00000058836 (September 4, 1951) and renewal registration number RE0000027774 (April 2, 1979). Faulkner is also the owner of all right, title and interest in the name, image and likeness of William Faulkner.

12. Neither Sony nor John Does sought or received Faulkner’s permission before creating, publishing and/or distributing the Infringing Film.

13. Sony, directly and by and through John Does, has marketed and distributed the Infringing Film internationally and across the United States, including in this District. Sony and John Does have sold and currently sell the Infringing Film internationally and across the United States and in this District.

**COUNT I: COPYRIGHT INFRINGEMENT (17 U.S.C. § 501)**

14. Faulkner incorporates by reference all averments in Paragraphs 1 through 13.

15. Faulkner is and was at all relevant times the owner of the copyright to the Book, including the Original Quote.

16. The Copyright Act grants Faulkner the exclusive right to reproduce and distribute

the Book and the Original Quote.

17. Sony and John Does infringed upon Faulkner's exclusive rights. Sony and John Does willfully and intentionally infringed upon Faulkner's exclusive rights.

18. Faulkner is entitled to either compensatory damages under 17 U.S.C. § 504 and to costs and attorney fees under 17 U.S.C. § 505. Faulkner is also entitled to injunctive relief, under 17 U.S.C. § 502, prohibiting Sony and John Does from any further publication of the Infringing Film in violation of Faulkner's rights.

**COUNT II: LANHAM ACT (15 U.S.C. § 1051 ET SEQ.)**

19. Faulkner incorporates by reference all averments in Paragraphs 1 through 18.

20. The Infringing Film was published, shown and distributed in the course of interstate commerce.

21. The use of the Infringing Quote and of William Faulkner's name in the Infringing Film is likely to cause confusion, to cause mistake, and/or to deceive the Infringing Film's viewers as to a perceived affiliation, connection or association between William Faulkner and his works, on the one hand, and Sony, on the other hand.

22. The use of the Infringing Quote and of William Faulkner's name in the Infringing Film is likely to cause confusion, to cause mistake, and/or to deceive the Infringing Film's viewers as to the origin, sponsorship, or approval of Sony's goods, services, or commercial activity by William Faulkner and/or his written works.

23. Sony's actions in distributing the Infringing Film were malicious, fraudulent, deliberate and/or willful.

24. Faulkner is entitled to damages, disgorgement of profits, costs and attorney fees pursuant to 15 U.S.C. § 1117.

**COUNT III: COMMERCIAL APPROPRIATION**

25. Faulkner incorporates by reference all averments contained in Paragraphs 1 through 24.

26. Through the distribution of the Infringing Film, Sony appropriated the name and works of William Faulkner.

27. Sony did not have Faulkner's consent to appropriate William Faulkner's name or his works for Sony's advantage.

28. Sony maliciously or in a grossly negligent manner appropriated William Faulkner's name and works for its own benefit, without regard for Faulkner's legal rights.

29. As a proximate result of Sony's actions, Faulkner is entitled to compensatory and punitive damages and attorney fees.

FOR THESE REASONS, Plaintiff Faulkner Literary Rights, LLC, requests that this Court grant judgment in its favor and against Defendants Sony Pictures Classics, Inc., and John Doe Persons or Entities 1-100, with relief to include compensatory damages, punitive damages, disgorgement of profits, injunctive relief, costs and reasonable attorney fees. Faulkner requests such other relief as the Court deems appropriate under the circumstances.

THIS, the 25<sup>th</sup> day of October, 2012.

Respectfully submitted,

FAULKNER LITERARY RIGHTS, LLC

  
\_\_\_\_\_  
J. CAL MAYO, JR. (MB NO. 8492)

POPE S. MALLETT (MB NO. 9836)

PAUL B. WATKINS, JR. (MB NO. 102348)

ITS ATTORNEYS

OF COUNSEL:

MAYO MALLETTE PLLC  
5 University Office Park  
2094 Old Taylor Road  
Post Office Box 1456  
Oxford, Mississippi 38655  
Tel: (662) 236-0055  
Fax: (662) 236-0035

**FILED**

JS 44 (Rev. 09/11)

**CIVIL COVER SHEET**

OCT 25 2012

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Faulkner Literary Rights, LLC

**DEFENDANTS**

Sony Pictures Classics, Inc., and John Doe Persons or Entities 1-100

(b) County of Residence of First Listed Plaintiff State of Virginia  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant State of New York  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)  
J. Cal Mayo, Jr., Mayo Mallette, PLLC, P.O. Box 1456, Oxford, Mississippi; 662-236-0055

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
17 U.S.C. §§ 501, et. seq., and 15 U.S.C. § 1125, et seq.

Brief description of cause:  
Copyright infringement

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

9264

AMOUNT

\$350.00

APPLYING IFP

JUDGE

Mills

MAG. JUDGE

Alexander